

## Message Text

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ACTION L-03

INFO OCT-01 ARA-14 ISO-00 CA-01 JUSE-00 EUR-12 /031 W  
-----059836 311531Z /45

R 310042Z MAR 78  
FM AMEMBASSY MEXICO  
TO SECSTATE WASHDC 9206

UNCLAS SECTION 01 OF 02 MEXICO 05195

E. O. 11652: N/A  
TAGS: CPRS, US, MX  
SUBJECT: EXTRADITION TREATY NEGOTIATIONS - MEXICO

REF: STATE 291665; MEXICO 1096 AND PREVIOUS.

1. ON MARCH 17 EMBASSY LEGAL ADVISER GAITHER MET WITH FOREIGN RELATIONS UNDERSECRETARY ROSENZWEIG DIAZ, DURING WHICH MEETING THE PROPOSED US/MEXICO EXTRADITION TREATY WAS DISCUSSED IN SOME DETAIL. ROSENZWEIG INDICATED THAT THE U. S. DRAFT TREATY HAD BEEN TRANSLATED AND SENT TO THE ATTORNEY GENERAL'S OFFICE FOR REVIEW. HE STATED A MEETING WOULD TAKE PLACE THE WEEK BEGINNING MARCH 27 FOR THE PURPOSE OF DEVELOPING THE GOM'S POSITION. ROSENZWEIG INDICATED THAT HE SAW NO PROBLEMS IN NEGOTIATION OF THE TREATY ALTHOUGH THEIR STRONGEST CONCERN WAS THE SCHEDULE OF OFFENSES WHICH THEY WOULD PREFER LEFT OUT. ROSENZWEIG NOTED THAT THE U. S. HAD NEGOTIATED AN AGREEMENT WITH THE UK WHICH DID NOT INCLUDE A SCHEDULE AND THAT THIS WOULD BE THE GOM'S PREFERENCE.

2. ROSENZWEIG THEN PROCEEDED THROUGH THE DRAFT ON AN ARTICLE BY ARTICLE BASIS AS FOLLOWS:

A) ARTICLE 1, PARAGRAPH (1). ROSENZWEIG WOULD LIKE A DEFINITION OF "DETENTION ORDER" WHICH APPEARS IN UNCLASSIFIED

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THIS PARAGRAPH AS WELL AS IN ARTICLE 2, (2) (B) AND (C).

B) IN ARTICLE 5, (2) (A), ROSENZWEIG REQUESTED A DEFINITION FOR "OPEN COMBAT". HE ADDED THAT GOM WOULD PREFER THAT THE HEAD OF STATE PROVISION NOT BE LIMITED TO THE HEAD OF STATE OF ONE OF THE CONTRACTING

PARTIES, I. E., THAT VISITING HEADS OF STATE SHOULD BE COVERED.

IN SUB PARAGRAPH (B) OF SAME PARAGRAPH, HE INDICATED GOM DID NOT LIKE REFERENCE TO "REQUESTING STATE" AND WOULD PREFER ITS DELETION. ROSENZWEIG STATED THAT IF THERE WERE DUAL OBLIGATIONS ON BOTH PARTIES OR SIGNATORIES, THIS SHOULD BE SUFFICIENT.

C) IN ARTICLE 10, PARAGRAPH (7) (A), THE GOM WILL NEED THE ADDITION OF THE FOLLOWING PHRASE: "AND LEGALIZED BY THE MEXICAN AUTHORITY IN THE UNITED STATES". IT WAS EXPLAINED THAT THIS WAS THE REQUIREMENT OF MEXICAN LAW AND THAT THE ISSUE HAD ARISEN IN SOME RECENT CASES.

ROSENZWEIG ALSO NOTED WITH RESPECT TO THIS SUB PARAGRAPH THAT IN PENAL CASES THE LEGALIZATION MUST BE MADE BY THE SECRETARY AS OPPOSED TO THE SECRETARIAT.

D) ARTICLE 12, PARAGRAPH (1) AND (2) IN RELATION TO ARTICLE 11 (3). THE GOM HAS A PROBLEM WITH THE TIME LIMIT AS INTERPRETED BY THEM. THE ISSUE IS WHETHER THESE PROVISIONS COULD EXTEND THE ARREST PERIOD. ROSENZWEIG INDICATED HE WOULD LIKE TO DISCUSS THIS POINT.

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E) ARTICLE 15. ROSENZWEIG WOULD PREFER TO SPELL OUT CRITERIA ON WHICH A DECISION COULD BE MADE. AS EXAMPLES HE GAVE THE TERRITORY WHEREIN THE CRIME WAS COMMITTED AND THE GRAVITY OF THE OFFENSE.

F) SCHEDULE: EMBASSY LEGAL ADVISER NOTED THAT HE HAD NEGOTIATED THE BASIC U. S. - U. K. AGREEMENT AND EXPLAINED THAT THE RATIONALE FOR THE DEPARTMENT'S PREFERENCE FOR SCHEDULE WAS PRIMARILY POLITICAL IN THE SENSE THAT THE DEPARTMENT WISHED TO KNOW WHAT OFFENSES WOULD BE COVERED BY THE TREATY IN ORDER TO AVOID A SURPRISE SITUATION WHEREIN THERE MIGHT BE DUAL CRIMINALITY BUT THAT THE PRACTICE OF ONE OF THE 2 PARTIES MIGHT BE SUCH THAT ALTHOUGH A PARTICULAR OFFENSE WAS ON THE BOOKS IT MIGHT RARELY, IF EVER, BE PROSECUTED AND HENCE COULD CAUSE DOMESTIC POLITICAL OBJECTIONS TO THE INDIVIDUAL'S EXTRADITION IN SUCH A SITUATION. HE ALSO NOTED THE DIFFICULTY OF DEALING WITH 50 STATES, PLUS THE FEDERAL CRIMINAL STATUTES.

WITH RESPECT TO THE U. S. - U. K. AGREEMENT, EMBASSY

LEGAL ADVISER EXPLAINED THAT THE U. K. PRACTICE WAS VERY DISTINCT FROM THAT OF OTHER COUNTRIES. HE NOTED THAT UNDER U. K. PROCEDURE, AN ACT MUST BE PASSED TO CREATE AN OFFENSE AND A SEPARATE ACT WAS REQUIRED TO MAKE THAT OFFENSE EXTRADITABLE. GIVEN THIS SITUATION, THE U. S. COULD EASILY KNOW WHAT OFFENSES WERE BEING MADE EXTRADITABLE BY THE U. K. AND THE POSSIBILITY OF A SURPRISE SITUATION COULD NOT

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EXIST.

3. ROSENZWEIG INDICATED THAT HE HOPED TO HAVE MORE COMMENTS AFTER THE WEEK OF THE 27TH AT WHICH TIME HE HOPED WE WILL BE ABLE TO SET A TIME AND SITE FOR THE NEGOTIATIONS. LUCEY

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## Message Attributes

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